

entry in audits as provided for in section 509 of the Tariff Act of 1930 and in any related administrative proceedings to recover any loss of revenue, or to collect duties, taxes or fees, determined to be due and owing pursuant to these audits. Uses may include, to the extent necessary, disclosure to the importer (or the legal representative of such importer) subject to the audit with respect to which the information was requested.

(g) *Disclosure to, and use by, the Department of Justice.* Return information disclosed to officers and employees of the U.S. Customs Service as provided by this section may be disclosed by these officers and employees to officers and employees of the Department of Justice (including United States attorneys) personally and directly engaged in, and solely for their necessary use in, advocating or defending the correctness of Customs determinations with respect to any entry, in any civil judicial proceeding, or any preparations therefor (or for their necessary use in an investigation which may result in such a proceeding), to recover any loss of revenue, or to collect duties, taxes or fees, determined to be due and owing as a consequence of an audit provided for in section 509 of the Tariff Act of 1930.

(h) *Disclosure by officers and employees of the Department of Justice.* Return information disclosed to officers and employees of the Department of Justice (including United States Attorneys) as provided by this section may be disclosed by these officers and employees to other persons as is necessary to properly accomplish the purposes or activities described in paragraph (g). Disclosure of return information to a person, other than the importer (or the legal representative of the importer) subject to the audit with respect to which the information was originally requested, to properly accomplish any purpose or activity described in paragraph (g) may be made, however, only if the purpose or activity cannot otherwise properly be accomplished without making the disclosure. Disclosures may include, but are not limited to, disclosures where necessary—

(1) To properly obtain the services of persons having special knowledge or technical skills;

(2) To properly interview, consult, depose, or interrogate or otherwise obtain relevant information from, the taxpayer (or the legal representative of the taxpayer) to whom the return information relates or any witness who may be called to give evidence in the proceeding; or

(3) To properly conduct negotiations concerning, or obtain authorization for, settlement or disposition of the proceeding, in whole or in part, or stipulations of fact in connection with the proceeding.

(i) *Use in criminal judicial proceedings.* Return information disclosed pursuant to this section may not be used in any criminal judicial proceeding, or any preparations therefor (or in a criminal investigation which may result in such a proceeding), involving the enforcement of a criminal statute, without compliance with the requirements of section 6103(i) (1) or (2) as appropriate. However, the return information may in any event be used for purposes of complying with the requirements of section 6103(i).

(j) *Restrictions.* Return information disclosed to officers and employees of the U.S. Customs Service or to the Department of Justice as provided by this section may not be used or disclosed for any purpose other than to ascertain, or advocate or defend the correctness of, Customs determinations with respect to, any entry in the audits for which the information was requested or in certain actions resulting from the audits as described above. Return information disclosed to officers and employees of the U.S. Customs Service or to the Department of Justice as provided by this section may not be disclosed to any person, including any contractor of the U.S. Customs Service, except as provided by this section, or as otherwise provided by section 6103 of the Internal Revenue Code.

[T.D. 8527, 59 FR 11548, Mar. 11, 1994. Redesignated by T.D. 8694, 61 FR 66220, Dec. 17, 1996]

**§ 301.6103(m)-1 Disclosure of taxpayer identity information.**

(a) *Definition.* For purposes of applying the provisions of section 6103(m) of

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the Internal Revenue Code, the term *agent* includes a contractor.

(b) *Effective date.* This section is applicable January 6, 2004.

[T.D. 9111, 69 FR 507, Jan. 6, 2004]

### **§ 301.6103(n)-1 Disclosure of returns and return information in connection with written contracts or agreements for the acquisition of property or services for tax administration purposes.**

(a) *General rule.* (1) Pursuant to the provisions of section 6103(n) of the Internal Revenue Code and subject to the conditions of this section, officers and employees of the Treasury Department, a State tax agency, the Social Security Administration, or the Department of Justice, are authorized to disclose returns and return information (as defined in section 6103(b)) to any person (including, in the case of the Treasury Department, any person described in section 7513(a)), or to an officer or employee of the person, for purposes of tax administration (as defined in section 6103(b)(4)), to the extent necessary in connection with a written contract or agreement for the acquisition of—

(i) Equipment or other property; or

(ii) Services relating to the processing, storage, transmission, or reproduction of returns or return information, the programming, maintenance, repair, or testing of equipment or other property, or the providing of other services.

(2) Any person, or officer or employee of the person, who receives returns or return information under paragraph (a)(1) of this section, may—

(i) Further disclose the returns or return information to another officer or employee of the person whose duties or responsibilities require the returns or return information for a purpose described in this paragraph (a); or

(ii) Further disclose the returns or return information, when authorized in writing by the Internal Revenue Service (IRS), to the extent necessary to carry out the purposes described in this paragraph (a). Disclosures may include disclosures to an agent or subcontractor of the person, or officer or employee of the agent or subcontractor.

(3) An agent or subcontractor, or officer or employee of the agent or subcontractor, who receives returns or return information under paragraph (a)(2)(ii) of this section, may further disclose the returns or return information to another officer or employee of the agent or subcontractor whose duties or responsibilities require the returns or return information for a purpose described in this paragraph (a).

(4) Any person, or officer, employee, agent or subcontractor of the person, or officer or employee of the agent or subcontractor, who receives returns or return information under this paragraph (a), may, subject to the provisions of § 301.6103(p)(2)(B)-1 (concerning disclosures by a Federal, State, or local agency, or its agents or contractors), further disclose the returns or return information for a purpose authorized, and subject to all applicable conditions imposed, by section 6103.

(b) *Limitations.* (1) Disclosure of returns or return information in connection with a written contract or agreement for the acquisition of property or services described in paragraph (a) of this section will be treated as necessary only if the performance of the contract or agreement cannot otherwise be reasonably, properly, or economically carried out without the disclosure.

(2) Disclosure of returns or return information in connection with a written contract or agreement for the acquisition of property or services described in paragraph (a) of this section shall be made only to the extent necessary to reasonably, properly, or economically perform the contract. For example, disclosure of returns or return information to employees of a contractor for purposes of programming, maintaining, repairing, or testing computer equipment used by the IRS or a State tax agency shall be made only if the services cannot be reasonably, properly, or economically performed without the disclosure. If it is determined that disclosure of returns or return information is necessary, and if the services can be reasonably, properly, or economically performed by disclosure of only parts or portions of a return or if